

Huber Heights, Ohio

Ordinance 90-0-435, Providing for Control of Potential Public Water Supply Pollutants

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City Dayton, Ohio

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Zoning Ordinance Adopted: 1990

FINAL - August 8, 1990

CITY OF HUBER HEIGHTS

MONTGOMERY COUNTY. OHIO

ORDINANCE 310. 90-O- 435

TO ENACT HEW HEALTH AND SAFETY REQUIREMENTS SO
AS TO PROVIDE FOR CONTROL OF POTENTIAL PUBLIC
WATER SUPPLY POLLUTANTS., AND DECLARING AN EMERGENCY

Sponsored By: Council member Karen Kaleps

WHEREAS, the groundwater in the aquifer underlying the Miami Valley and the City of Huber Heights is the source of drinking water supply in the area and groundwater is a sensitive natural resource; and

WHEREAS, the City has enacted new zoning legislation to create a separate district known as the Wellfield Protection Overlay District; and

WHEREAS, the City desires to approach public water supply and well field protection in a rational and objective manner by instituting pollution source controls in the wellfield protection Overlay District; and

WHEREAS,
the City desires to regulate potential pollutants to the fullest extent authorized by law by enacting this legislation as a measure to ensure the protection and availability of public drinking water supplies; and

WHEREAS, the City desires to assume and maintain a leadership role in protection of regional drinking water resources through its own efforts and in cooperation with other local governments and state and federal agencies; and

WHEREAS, it is determined that such legislation is consistent with the City's policy of

protecting the water resources; NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUBER HEIGHTS, THAT

Section 1

the following chapter of the ordinances of the City of Huber Heights in hereby enacted to read as set forth below:

"Section 1.01 PUBLIC WATER SUPPLY REGULATIONS AND PENALTIES

(A) PURPOSE. The purpose of this chapter is to safeguard the public health, safety and welfare and to provide for the protection and availability of existing and future potable water supply by instituting rational and objective requirements, standards and criteria for the control of toxic or otherwise hazardous substances within the wellfield Protection Overlay District as established by the Zoning Code for the territory in and around the present and future public wells and well fields of the City of Dayton, City of Huber Heights, Ohio Suburban Water Company and/or other protected public water supplies, thereby enhancing the protection of the public potable water supply from contamination.

(3) SCOPE

(1) The provision. of this chapter shall be effective within the well field Protection Overlay District. This ordinance provide. for pollution contorl pertaining to the public water supply.

(2) Nothing contained in this chapter shall be construed so as to interfere with any existing or future lawful requirements that may be, or hereto-fore were, imposed by any other public body authorized to enact sanitary health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this ordinance.

(c) ADMINISTRATION

Except as otherwise provided herein, the Zoning Officer for the City of Huber Heights, or his/her designee, hereinafter referred to as the zoning Officer, shall administer, implement, and enforce provisions of the Chapter.

(1) Any person found in violation of any provisions of this chapter or any order, requirement, rule or regulation issued under the authority of this chapter will be served with a written notice stating the nature of the violation and providing reasonable time for compliance; provided however, written notice of violation may be dispensed with under the conditions described in Section 1.03 below and provided further, that if the Zoning Officer has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Zoning Officer may dispense with establishing another time period for compliance.

(2) The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the county tax record.

(E) INSPECTIONS. The Zoning Officer or authorized designee, including designated employees of the Ohio Suburban Water Company, bearing proper identification, may request permission to enter private property at any reasonable time for the purposes of inspection, observation, measurement, sampling and records examination pertaining to the requirements of this chapter to ensure that activities are in accordance with the provisions of this chapter. Information obtained as a result of such inspections shall be subject to the Ohio Public Records law. If the owner or tenant does not consent to the entry of the Zoning Officer or the authorized designee for the above stated purposes, the Zoning Officer may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

(F) SEVERABILITY. A finding by any court or other jurisdiction that any part or provision of this ordinance is invalid shall not affect the validity of any other part or provision of this ordinance which can be given effect without the invalid parts or provisions.

C) SUBJECT AREA.

(1) The Area subject to the provisions of this chapter is the wellfield Protection Overlay District as shown on the official zoning map of the City of Huber Heights.

(2) Maps designating the wellfield Protection Overlay District shall be included as part of the Official Zoning Map for the City of Huber Heights.

(H) DETERMINATION OF APPLICABILITY. It shall be the responsibility of any person owning said real property or owning or operating a business within said Overlay District to make a determination of the applicability of this chapter as it pertains to the property or business and failure to do so shall not excuse any violations of said sections.

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Section 1.02 REGULATED SUBSTANCES

(A) DEFINITION. The substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals and mixtures of chemicals which are health hazards. Regulated Substances include:

(1) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.

(2) Mixtures of chemicals which have been tested as a whole and have been determined to be

a health hazard.

(3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one percent (1%) or greater of the composition on a weight per unit basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one-tenth of one percent (0.1%) or greater of the composition on a weight per unit weight basis.

(4) Ingredients of mixtures prepared within the wellfield Protection Overlay District in cases where such ingredients are health hazards but comprise less than one tenth of one percent (0.1%) of the mixture (on a weight per unit weight basis) if carcinogenic, or less than one percent (1%) of mixture (on a weight per unit weight basis) if non-carcinogenic.

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(5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

(B) MANAGEMENT.

(1) No person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle", any regulated substance on public or private property within the wellfield Protection Overlay District in violation of this chapter.

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(2) Any violation of Division (B)(1) of this chapter is hereby determined to be a nuisance.

Section 1.03 REPORTING AND PROTECTION REQUIREMENTS.

(A) REGULATED SUBSTANCES ACTIVITY INVENTORY

(1) Applicability

(a) Except as provided in Section 1.02(A)(1)(d) and Section 1.03(A)(2), any owner or occupant of any land in the Wellfield Protection Overlay District at the effective date of the section, shall file a Regulated Substance Activity Inventory Report with the Zoning Officer. Said report shall be filed within one hundred and eighty (180) days of the effective date of this section and at twenty-four (24) month intervals thereafter.

(b) Except as provided in Section 1.03(A)(2), any new owner or occupant of any land in the Wellfield Protection Overlay District shall file a Regulated Substance Activity Report prior to receipt of a Certificate of Occupancy and at twenty-four (24) month intervals following the date of occupancy. For purposes of this section, new shall be defined as subsequent to the effective date of this Section.

(c) Where a person owns, operates than one location, Regulated Substances Activity Reports shall be made for each location.

(d) Agricultural uses shall file a Regulated Substance Activity Report within one hundred eighty (180) days after the effective date

of this Section and at twelve (12) month intervals thereafter. Regulated Substance Activity Reports for agricultural uses shall include total annual on-site application of Regulated Substances for the reporting property.

(2) Exclusions to Activity Inventory Reporting:

Any exclusion set forth in this subsection shall apply provided that said exclusion does not substantially increase any risk or hazard to the public health or water supply, wells or wellfields; and provided further that any spill, leak discharge or mishandling shall be

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subject to the provisions of this Section 1.03(B). Any exclusions granted herein shall not remove or limit the liability and responsibility of any person or activity involved.

(b) A limited exclusion from Regulated Activity Inventory Reporting is hereby authorized for incidental uses of Substances provided the uses are as follows:

(1) The aggregate of Regulated Substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at time for each location.

(2) The total use of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period for each location.

(c) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for non-routine maintenance or repair of property in the Wellfield Protection Overlay District provided the uses are limited as follows:

(1) The aggregate of Regulated Substances in use may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(2) The total use of use of regulated Substances in use may not exceed one hundred (100) hundred gallons or eight hundred (800) pounds in any twelve (12) month period for each location.

(d) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for Regulated Substances which are cleaning agents, provided, however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time at each

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location. In no case shall Regulated Substances claimed under the exclusion include hydrocarbon Or halogenated hydrocarbon

solvents.

(e) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for medical and research laboratory uses in the Wellfield Protection Overlay District, provided, however, Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred fifty (250) gallons or two thousand (2,000) pounds at each location.

(f) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for the transportation of Regulated Substances through the Wellfield Protection Overlay District provided that the transporting vehicle is in compliance with applicable city ordinances and federal and Ohio laws and regulations and provided that the Regulated Substance is fueling the transportation vehicle or the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed seventy-two (72) hours.

(g) A limited exclusion from Regulated Substance Activity Inventory Reporting is hereby authorized for owner and occupants of single or two-family residences. provided, however, the storage and use of Regulated Substances are related to the maintenance of the residence or vehicles under control of the occupant and provided waste Regulated Substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly owned waste-water treatment works.

(3) SPILLS. LEAKS OR DISCHARGES.

(1) Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within the Wellfield Protection Overlay District shall, if such a spill, leak or discharge escapes containment, contacts a non-impervious ground surface and is not immediately and completely remediated, give immediate notice to the operator on duty at the City of Huber Heights Police and Fire Dispatch Center, by telephone.

The notification shall include, at a minimum, the location of the incident. name and telephone number, date and time thereof. type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.

(2) The application of agricultural chemicals, fertilizer: mineral acids, organic sulphur compounds, etc. used in routine agricultural operations including plant nutrients and crop protection materials, applied under Best Management Practices as indicated by soil tests, the OSU Cooperative Extension Service, the Soil and Water Conservation District, and label directions approved by the United States EPA or the Ohio Department of Agriculture shall not be considered a spill, leak, or discharge subject to the reporting provisions of this Section.

(3) Any person who spills, leaks or discharges substance(s) within the Wellfield Protection Overlay District shall be liable for any reasonable expense, loss or damage in response to such an incident incurred by the City of Dayton, the city of Huber Heights, the Ohio Suburban Water

Company and other protected public water supply utilities operating within the City of Huber Heights, in addition to the amount of any fines imposed on account thereof under Ohio and federal law. Said person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of recurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

(C) UNDERGROUND STORAGE TANKS.

(1) Definition

An underground storage tank is any one or combination of tanks (including underground pipes

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connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of underground pipes connected thereto is ten percent (10%) or more beneath the ground. Flow-through tanks approved by the Environmental Protection Agency as applicable, are excluded from the definition of underground storage tanks.

(2) Underground Storage Tanks Declared To Constitute Dangerous Nuisances.

(a) With the exception of the residential use of home heating fuel in tanks having a capacity equal to or less than five hundred (500) gallons, and underground storage systems for accessory vehicle fuel. Vehicle lubricants, fuel for building heating and fuel for process heating, any storage of Regulated Substance in underground storage tanks within the Wellfield Protection Overlay District shall be deemed to constitute a dangerous nuisance. Every such nuisance must and shall be abated no later than five (5) years from the date of this chapter.

(b) With the exception of residential use of home heating fuel in tanks having a capacity equal to or less than five hundred (500) gallons, any underground storage tank systems for accessory vehicle fuel and lubricants and fuel for building and/or process heating within the Wellfield Protection overlay District not removed within five (5) years from the effective date of this chapter must be secondarily contained and monitored in accordance with plans submitted to and approved by the Zoning Officer and the City of Huber Heights Fire Department.

(D) FALSIFYING INFORMATION.

No person shall make any false statement, or certification in any report or other or required to be maintained pursuant to this ordinance.

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equal to or less than five hundred (500) gallons. any underground storage tank systems for accessory vehicle fuel and lubricants and fuel for building and/or process heating within the Weilfield Protection overlay District not removed within five (5) years from the effective date of this chapter must be secondarily contained and monitored in accordance with plans submitted to and approved by the Zoning Officer and the City of Huber Heights Fire Department.

(D) FALSIFYING INFORMATION.

No person shall make any false statement, or certification in any report or other or required to be maintained pursuant to

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Section 1.04 PUBLIC WATER SUPPLY PROTECTION AUTHORITIES.

(A) APPLICATION. If any activity or use of a Regulated Substance in the Wellfield Protection Overlay District is deemed by the zoning Officer to pose a real and present danger of contaminating surface and/or ground water which would normally enter the public water supply. the Zoning Officer is authorized to use the nuisance abatement and control authority granted by the Ohio Revised Code to:

(1) Cause cessation of said activity or use of the Regulated Substance;

(2) Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or

(3) Cause the provision of pollution control and/or abatement activities

(B) CONSIDERATIONS. When considering the exercise of any of the above authorities or actions, the Zoning Officer shall consult with the appropriate administrative official of any potentially affected protected public water supply. Such consultation shall determine what

measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and future. The Zoning Officer may take into consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.

(C) **EXEMPTION OF CERTAIN REGULATED SUBSTANCES.** The Zoning Officer is authorized to exclude certain regulated substances that pose no threat to groundwater from the provisions of this chapter. Prior to authorizing the exemption of any regulated substance, the Zoning Officer shall have such request for exemption reviewed by the Regional Environmental Advisory Board (R.E.A.B.) The recommendation of the R.E.A.B. shall be binding on the Zoning Officer.

(D) **TECHNICAL CONSULTANTS.** Upon application for a Zoning Certificate and/or Occupancy Permit for a use within the WP Wellfield Protection Overlay District, the Zoning Officer may employ such technical expertise as needed to ensure compliance with the provisions of this chapter. All cost incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged by the City to review a Zoning Certificate and/or Occupancy Permit.

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Section 1.05 WELLFIELD PROTECTION APPEALS BOARD.

(A) **APPEALS.** Any person may appeal an action of the Zoning Officer to Section 1.04 by filing with the City Manager a Notice of Appeal within fourteen (14) days of said action. Failure to do so shall be deemed a waiver of the right to appeal. If such a Notice of Appeal is timely filed, the person appealing must file a Statement of Appeal within thirty (30) days of the date that the order being appealed was issued. A Notice of Appeal shall include as a minimum: name, address; telephone number; date; and a statement of intent to appeal. A Statement of Appeal shall include all information contained in the Notice of Appeal, a description of the nature of the appeal and any pertinent documentation.

(B) **APPEALS BOARD.** The board of Zoning Appeals of the City of Huber Heights is hereby appointed to hear Wellfield Protection Appeals. The decision of the board shall constitute a final administrative order that may be appealed by the City or by any aggrieved party.

Section 1.06 PENALTIES FOR VIOLATIONS.

No person shall violate or continue to violate any provision of this chapter. Any such violation shall constitute a fourth degree misdemeanor punishable by a fine of up to Two Hundred Fifty Dollars (250.00) and a term of imprisonment of up to thirty (30) days or both. A second violation and every violation thereafter shall constitute a third degree misdemeanor punishable by a fine of not less than Five Hundred Dollars (500.00) or imprisonment of not less than sixty (60) days or both.

Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate protection of the health, safety and welfare, and for the further reason of the public water supply is a real and present danger to the safety of the Citizens of Huber Heights; therefore, this Ordinance shall be in full force and effect immediately upon its adoption by Council.

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FINAL - August 8,

CITY OF HUBER HEIGHTS
MONTGOMERY COUNTY, OHIO

ORDINANCE 90-0-434

TO AMEND THE CITY OF HUBER HEIGHTS ZONING
ORDINANCES BY THE ENACTMENT OF ARTICLE 4, SECTION 1,
NUMBERS 119 THROUGH 126; ARTICLE 6, SECTION 1;
36 TO CREATE AND ESTABLISH LAND USE REGULATIONS
WELLHEAD OPERATION DISTRICT (WO); AND ARTICLE 37
CREATE AND ESTABLISH LAND USE REGULATIONS FOR THE
WELLFIELD PROTECTION OVERLAY DISTRICT (wP), AND TO
AMEND THE OFFICIAL ZONING MAP BY DESIGNATING THE
WELLHEAD PROTECTION OVERLAY DISTRICT AS THE AREA
DESCRIBED IN EXHIBIT A., AND DECLARING AN EMERGENCY

SPONSORED BY:

Councilmember Karen Kaleps

WHEREAS, the safety and potability of the community's water supply require that lands proximate to the wellfields of the City of Dayton, City of Huber Heights and /or other protected public water supplies be subject to land use controls designed to prevent uses injurious to the public water supply; and

WHEREAS, residential, commercial and industrial uses if unregulated have an immediate probability of permitting the introduction of toxic substances into the water supply; and water supply;

WHEREAS, in order to achieve the timely implementation of ordinances set forth herein for the prevention of contamination the water supply; and

WHEREAS, in order to achieve the timely implementation of ordinances set forth herein for the prevention of contamination the water supply and the protection of public health, necessary that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUBER HEIGHTS, OHIO,
THAT:

Section 1.

The Zoning Code is hereby amended by the enactment of Article 4, Section 1, Numbers 119 through 126; Article 6, Section 1; Article 36; and Article 7 which shall read as follows:

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DEFINITIONS

ARTICLE 4. SECTION 1

WELLFIELD

119. AQUIFER" A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of

water.

120. "REGULATED SUBSTANCES" Substances to be regulated, hereinafter referred to as Regulated Substances, are chemicals or mixtures of chemicals which are health hazards.

Regulated Substances include:

(1) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(3) Mixtures of chemicals which as a whole but which contain have been determined to be a health hazard comprises one (1%) percent composition on a weight per mixtures of chemicals which the concentration of the chemical is one tenth of one (0.1%) the composition on a weight basis have not been tested as any chemical which has a health hazard and which is or greater than the unit weight basis, and include a carcinogen if carcinogen in the mixture percent or greater of per unit weight basis.

(4) Ingredients of mixtures prepared within the WO Wellhead Operation District and the WP Wellfield Protection Overlay District in cases where such ingredients are health hazards but comprise less than one tenth of one (0.1%) percent of the mixture (on a weight per unit weight basis) if carcinogenic, or less than one (1.0%) percent of the mixture (on a weight per unit weight basis) is non-carcinogenic.

(5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

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121. "ONE YEAR CAPTURE AREA" The area around the public water supply wellfields delineated by the one year travel time contour.

122. "DIRECT RECHARGE AREA" That portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

123. "RECHARGE LAGOON" A body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.

124. "WELLFIELD" A tract of land that contains a number of wells for public water supply.

125. "PUBLIC WATER SUPPLY" Shall include but not be limited to municipal water

supplies from Ohio Suburban Water Co. and Valley Water Works, their successors and assigns.

126. "POTABLE WATER" Water that is satisfactory for drinking, culinary and current drinking water standards..

127. "PROTECTED PUBLIC WATER SUPPLY" A public water system which serves at least fifteen (15) service connections used by year round residents or regularly serves at least twenty-five (25) year round residents, and having a one year capture area defined through appropriate hydrologic studies.

128. "ZONE OF INFLUENCE" A zone delineated by iso-travel time contours around wellfields. The zone is calculated, based on the rate of movement of groundwaters in the vicinity of wells with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.

129. "TRAVEL TIME" A locus of points from which water takes an equal amount of time to reach a given destination such as a well or wellfield.

130. "UNDERGROUND STORAGE TANK" Any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including the volume of underground pipes connected thereto) is ten (10%) percent or more beneath the surface of the ground. Flow through process tanks and septic tanks approved by the Health Department or Ohio Environmental Protection Agency, as applicable, are excluded from the definition of underground storage tanks.

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ARTICLE 6. SECTION 1

Change to read "...of the following twenty-three (23) districts:"

WO wellhead Operation District

VP wellfield Protection Overlay District

ARTICLE 36 WO WELLHEAD OPERATION DISTRICT

36.01 DETERMINATION OF APPLICABILITY. It shall be the responsibility of any person owning real property owning or operating a business within the City of Huber Heights to make a determination of the applicability of this Article as it pertains to the property or business or operation and failure to do so shall not excuse any violations of this Article.

36.02 PURPOSE. The WO Wellhead Operation District is designed to safeguard the public health, safety and welfare of the customers of protected public water supplies by regulating the land use and the storage, handling, use and/or production of Regulated Substances. This district will be shown on the City's zoning ITSp at the location of any existing or proposed public wells. The intent of this designation is to protect the community's potable water supply against

contamination.

36.03 PERMITTED USES.

(A) Municipal water supply, treatment facilities in accordance with the City of Huber Heights plan(s) for water supply and treatment.

(B) Public parks, playgrounds, and community centers.

36.04 SPECIAL USES.

(A) Public utility uses as follows:

- (1) Electric and telephone substations.
- (2) Gas regulator and meter station buildings.
- (3) Electric and communication transmission towers and structures.

(B) Existing residences, public and private museums, guest houses.

36.05 GROUNDWATER PROTECTION STANDARDS.

(A) Use of Regulated Substances in conjunction with municipal water supply and treatment activities shall not be restricted by this Article. Storage of Regulated Substances in conjunction with municipal water supply and treatment activities shall not be restricted by this Article.

(E) Use of Regulated Substances in conjunction with public parks, Playgrounds, and community centers shall be in accordance with the City of Huber Heights management plan for Maintenance of Sensitive Areas.

(C) Use of Regulated Substances with special limited, per

Regulated Substances in conjunction Uses in this district shall be special use, to:

- (1) The aggregate in use may not exceed one hundred times.

of Regulated Substances exceed twenty (20) gallons sixty (60) pounds at any

- (2) The total use of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(D) A limited exclusion from the provisions of 36.05(c) is authorized for non-routine maintenance or repair of property or equipment, use of Regulated Substances under this exclusion shall be limited, per special use, to

(1) The aggregate of Regulated Substances in use may not exceed fifty (50) gallons or four hundred (400) pounds at any time.

(2) The total use of Regulated Substances may not exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(E) Storage of fuel and lubricants for vehicle operations in conjunction with permitted and special uses in this district shall be in tanks placed above the floor surface of a below grade vault. Said vault shall allow access for physical inspection of the tank for leakage and the interior of the vault shall be continuously monitored and alarmed to provide for automatic and immediate detection of any release from the tank.

(F) Notwithstanding other provisions of this Article, non-conforming uses in this district presently utilizing underground storage tanks shall be permitted to replace existing tanks with those constructed as per the specifications of 36.05(E) above and not exceeding the capacity of existing tanks.

(G) As part of the findings required under Article 27, Section 5(D), the Zoning Officer shall utilize the hazard Potential Ranking System, 37.07 assist in the determination of intensity of use within this district. No substitutions of a non-conforming use shall be permitted which result in an increase of the Hazard Potential Ranking on a parcel within this district.

(H) All uses within this district shall be connected to the public wastewater disposal system or have a City-approved wastewater disposal plan within a three (3.) year period of the establishment of the district.

36.06

NON-CONFORMING USES. If

a non-conforming use of any land, building or structure is discontinued for six (6) months or more, any further use shall be in conformity to this District.

ARTICLE 37 WP WELLFIELD PROTECTION OVERLAY DISTRICT

37.01

PURPOSE. The "WP" Wellfield Protection Overlay District is designed to safeguard the public health, safety and welfare of the customers of protected public water supplies by regulating the land use and the storage, handling, use and/or production of Regulated

map includes the existing and proposed protected public water supply wells and their one (1) year capture area , and a one thousand (1,000) foot strip of land outside the direct recharge area in locations where the direct recharge area within the one (1) year capture impinges on the aquifer boundary. The intent of designation is to protect the community's potable supply against contamination.

37.02

APPLICABILITY OF WELLFIELD PROTECTION OVERLAY DISTRICT TO UNDERLYING ZONING DISTRICTS.

The provisions of this Article shall be applicable to all lands shown as being located within the boundary of the "WP" Wellfield Protection Overlay District on Zoning Map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this Article are in conflict with regulations of the underlying district, the restrictive regulations shall apply.

37.03 DETERMINATION OF APPLICABILITY. It shall be the responsibility of any person owning or operating a business within the City of Huber heights to make a determination of the applicability of this Article as it pertains to the property or business or operation and failure to do so shall not excuse any violations of this Article.

37.04 PERMITTED USES. BULK AND YARD REGULATIONS. The permitted uses, bulk and yard regulations within the "WP" Wellfield Protection Overlay District shall be those of the underlying zoning district, subject to any more restrictive regulations of this Overlay District.

37.05 SPECIAL USES. The special uses within the WP wellfield Protection Overlay District shall be those of the underlying zoning districts subject to any more restrictive regulations of this Overlay District.

Sanitary landfills, drywells and landfills comprised of demolition debris, or other non-approved material and junkyards are prohibited.

If a non-conforming use of any land, building or structure is discontinued for six (6) months or more, any further use shall be in conformity with this District.

37.06 GROUNDWATER PROTECTION STANDARDS

(A) Use, storage, handling and/or production of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited as to each use, to:

(1) The aggregate of Regulated Substances in use, storage, handling and/or production exceed twenty (20) gallons or one (160) pounds at any time.

(2) The total use, storage, handling and/or production of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(B) A limited exclusion from the provisions of 37.06(A) is authorized for non-routine maintenance of property or equipment. The use, handling and/or production of Regulated Substances under this exclusion shall be limited as to each use, to:

(1) The aggregate of Regulated Substances in use, storage, handling and/or production may not exceed 50 gallons or (400) pounds at any time.

(2) The total use, storage, handling and/or production of Regulated Substances may exceed one hundred (100) gallons or eight hundred (800) pounds in any twelve (12) month period.

(C) A limited exclusion from the provisions of 37.06(A) is authorized for each medical and research laboratory use, provided however, Regulated Substances shall be stored, handled or used in containers not to exceed five (5) gallons or forty (40) pounds of each substance and the aggregate inventory of Regulated Substances shall not exceed two hundred fifty (250) gallons or two thousand (2,000) pounds.

(D) A limited exclusion from the provisions of 37.06(A) is authorized for Regulated Substances which are cleaning agents, provided however such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public,

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and provided the aggregate inventory of such cleaning agent⁸ as to any use shall not exceed one hundred (100) gallons or eight hundred (800) pounds at any time. In no case shall Regulated Substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(E) A limited exclusion from the provisions of 37.06(A) is authorized for On-site storage of a maximum one-year supply of agricultural chemicals to be used for routine On-site agricultural operations, provided such substances are stored in standard approved packaging and such chemicals are applied to cropland under Best Management Practices as indicated by soil tests, the OSU Cooperative Extension Service the Soil and Water Conservation District and label directions approved by the United States Environmental Protection Agency and Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from other locations. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory, spill reporting and under-ground storage tank protection requirements of the Well Field Protection Overlay District.

(F) Storage of fuel and lubricants for vehicle operations in conjunction with permitted and

conditional uses in this district shall be in underground tanks placed above the floor surface of a below grade vault. Said vault allow access for physical inspection of the tank for leakage and the interior of the vault shall be continuously monitored and alarmed to provide for automatic and immediate detection of any release from the tank.

shall

(C) Notwithstanding other provisions of this non-conforming uses in this district pre utilizing underground storage tanks permitted to replace existing tanks with constructed as per the specifications of above and not exceeding the capacity of tanks.

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(H) No substitutions of a non-conforming use shall be permitted which results in an increase of the Hazardous Potential Ranking System on a parcel within this district. If the Hazardous Potential Ranking decreases for a non-conforming use for a period of six (6) months or more, the non-conforming right to the higher Hazardous Potential Ranking shall be deemed to have been lost through non-use for that period of time.

(I) Heating fuels for residential use in tanks having a capacity of 500 gallons or less are exempt from this ordinance.

37.07 HAZARD POTENTIAL RANKING SYSTEM USES. Any existing uses legally using and/or producing Regulated amounts equal to or less than the under Section 37.06 are considered conforming uses and this section does not apply. Any new use or change of use shall maintain the conforming status of the property.

Existing non-conforming uses shall be permitted to maintain the reported maximum quantity far each reportable Regulated Substance, as determined by peak business cycle. Existing uses and maximum quantities, in combination with a hazard potential rating shall run with the land and be administered in conformance with all other applicable nonconforming provisions of the Huber Heights zoning Code.

In order to assess the risk far potential ground-water contamination, a hazard ranking has been developed for various activities categorized by their Standard Industrial Classification (SIC) code. This ranking is based on the kind of materials coiffionly associated with each use looking only at the most critical hydrologic factors.

Table 1 below lists the site hazrd potential by land use activity on a scale of one (1) to nine, with the one (1) being a low hazard and nine (9) high hazard. This rating is based an the intrinsic hazards posed by different land uses related to the materials commonly discharged.

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Table 2 below lists the hazard potential determined on the basis of material known to be used, stored, or disposed of at a specific site.

If the two tables referenced above indicate different site hazard potential ratings for the SIC-coded land use activity and the materials found on-site, the higher of the two scores is the rating for the site.